



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2018-0741; FRL-9994-41-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Removal of Unnecessary Electric Arc Furnace Regulation and References to the Electric Arc Furnace Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve three state implementation plan (SIP) revisions submitted by the State of Delaware. One revision requests EPA remove from the Delaware SIP a state regulation governing emissions from Electric Arc Furnaces (EAF) because there are no such sources in Delaware and the State has already repealed this regulation. EPA is further proposing to approve minor revisions to two SIP approved regulations which reference the repealed EAF regulation in order to remove references to the EAF regulation. EPA is proposing approval of these SIP revisions in accordance the Clean Air Act (CAA).

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2018-0741 at <https://www.regulations.gov>, or via email to spielberger.susan@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once

submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Elizabeth Gaige, Air Quality Analysis Branch (3AD40), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-5676. Ms. Gaige can also be reached via electronic mail at gaige.elizabeth@epa.gov.

SUPPLEMENTARY INFORMATION: On May 25, 2018, the State of Delaware, through the Department of Natural Resources and Environmental Control (DNREC), formally submitted a SIP revision requesting the removal of a state regulation found at 7 Delaware Admin. Code 1123 – *Standards of Performance for Steel Plants: Electric Arc Furnaces*, from the Delaware SIP because it is outdated. Delaware requested removal of 7 Delaware Admin. Code 1123 because there are currently no such sources in the state of Delaware, and more restrictive State and Federal requirements are in place if any new EAF are constructed in Delaware in the future.

Delaware has already repealed and removed 7 Delaware Admin. Code 1123 from Delaware's regulations.

Subsequently, on March 19, 2019, the State of Delaware, through the DNREC, formally submitted two more SIP revisions requesting a minor revision to state regulation 7 Delaware Admin. Code 1114 – *Source Monitoring, Record Keeping and Reporting*, and to state regulation 7 Delaware Admin. Code 1117 – *Visible Emissions*. Both of these regulations contain cross references to the EAF regulation which Delaware has repealed, and these two SIP revisions remove these cross references.

I. Background

Delaware House Bill 147 requires each Executive Branch agency to perform a periodic review of existing regulations to determine if any should be modified or eliminated. The review identified 7 Delaware Admin. Code 1123 – *Standards of Performance for Steel Plants: Electric Arc Furnaces* as needing to be eliminated because there are currently no such sources in the State of Delaware and more restrictive State and Federal requirements are in place should any new EAF be constructed in Delaware. The State subsequently identified language in 7 Delaware Admin. Code 1114 – *Source Monitoring, Record Keeping and Reporting* and 7 Delaware Admin. Code 1117 – *Visible Emissions*, that needed to be updated because these regulations both refer to 7 Delaware Admin. Code 1123 – *Standards of Performance for Steel Plants: Electric Arc Furnaces*.

II. Summary of SIP Revision and EPA Analysis

On May 25, 2018, the State of Delaware, through the DNREC, formally submitted a SIP revision requesting removal of state regulation 7 Delaware Admin. Code 1123 – *Standards of*

Performance for Steel Plants: Electric Arc Furnaces from the Delaware SIP because there are no EAFs in Delaware and any future EAF constructed in Delaware would be subject to more stringent Federal and State regulations than 7 Delaware Admin. Code 1123.

The removal of 7 Delaware Admin. Code 1123 has no expected emissions impact on any pollutant because there are no existing EAFs in Delaware and the removal of the regulation is not expected to interfere with reasonable further progress, any National Ambient Air Quality Standards (NAAQS) or any other CAA requirement. Therefore, the removal of 7 Delaware Admin. Code 1123 from the Delaware SIP is in accordance with section 110(l) of the CAA.

On March 19, 2019, the DNREC formally submitted two SIP revisions requesting minor amendments to the SIP approved versions of 7 Delaware Admin. Code 1114 – *Source Monitoring, Record Keeping and Reporting* and to state regulation 7 Delaware Admin. Code 1117 – *Visible Emissions*. In order to be consistent with the elimination of 7 Delaware Admin. Code 1123, the State has already changed 7 Delaware Admin. Code Sections 1114 and 1117 to remove the references to the repealed EAF regulation. Delaware’s March 19, 2019 SIP submittal requests that these changes be incorporated into the SIP approved versions of these regulations.

III. Proposed Action

EPA is proposing to approve Delaware’s May 25, 2018 and March 19, 2019 SIP revisions, as the submissions meet the requirements of CAA section 110. EPA’s review of this material indicates that there are no sources in the state of Delaware subject to 7 Delaware Admin. Code 1123 – *Standards of Performance for Steel Plants: Electric Arc Furnaces*. If an EAF is constructed in the future in the State of Delaware, the EAF would be subject to more stringent State or Federal requirements. EPA is proposing to approve the Delaware SIP revisions, which were submitted

on May 25, 2018 and March 19, 2019. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the updated definition of VOC in 7 Delaware Admin. Code 1114 – *Source Monitoring, Record Keeping and Reporting*, and to state regulation 7 Delaware Admin. Code 1117 – *Visible Emissions*, which remove references to 7 Delaware Admin Code 1123 – *Standards of Performance for Steel Plants: Electric Arc Furnaces*. EPA has made, and will continue to make, these materials generally available through <http://www.regulations.gov> and at the EPA Region III Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land as defined in 18 U.S.C. 1151 or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In

those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

In addition, this proposed rule, to remove an outdated EAF regulation from the Delaware SIP and to amend two other SIP approved regulations to remove cross references to the EAF regulation, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 et seq.

Dated: May 17, 2019.

Cosmo Servidio,

Regional Administrator,

Region III.

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